

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1389

Introduced by Assembly Member Torrico

February 23, 2007

An act to amend Sections ~~12711, 12712, 12714, 12715, and 12715.5~~ of, and to repeal Section ~~12718~~ of, *12712, 12715, and 12716* of the Government Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 1389, as amended, Torrico. Tribal gaming: local agencies.

Existing law creates in the State Treasury the Indian Gaming Special Distribution Fund for the receipt and deposit of moneys received by the state from certain Indian tribes pursuant to the terms of gaming compacts entered into with the state. Existing law authorizes moneys in that fund to be used for specified purposes, including for grants for the support of state and local government agencies impacted by tribal government gaming.

~~Existing law creates, until January 1, 2009, a County Tribal Casino Account in the treasury for each county that contains a tribal casino. Existing law requires that 5% of the total amount appropriated by the Legislature for grants to local agencies impacted by tribal gaming be deposited in the County Tribal Casino Accounts for counties that do not have gaming devices that obligate an Indian tribe to make payments to the Indian Gaming Special Distribution Fund. Existing law requires that 95% of the total amount appropriated by the Legislature for that purpose be deposited in those accounts for counties that have gaming devices that obligate an Indian tribe to make payments to the Indian Gaming Special Distribution Fund.~~

~~This bill would require, instead, that the amount deposited in each eligible county's County Tribal Casino Account be determined based on the number of gaming devices located in that county.~~

Existing law *creates, until January 1, 2009, a County Tribal Casino Account in the treasury of each county that contains a tribal casino. Existing law* requires the Controller to divide the County Tribal Casino Account for each county that has gaming devices that are subject to an obligation to make contributions to the Indian Gaming Special Distribution Fund into a separate account, known as an Individual Tribal Casino Account, for each tribe that operates a casino within the county. Existing law provides for a certain portion of funds in an Individual Tribal Casino Account to be used for grants to local agencies impacted by tribes that are paying into the Indian Gaming Special Distribution Fund, and a certain portion for grants to local agencies impacted by tribes that are not paying into that fund. *Existing law establishes an Indian Gaming Local Community Benefit Committee in each county in which gaming is conducted and requires that committee to make the selection of grants from the casino accounts.*

~~This bill would eliminate that distinction between the funds that are required to be used for grants to local agencies impacted by tribes that are paying into the Indian Gaming Special Distribution Fund and those that are required to be used for grants to local agencies impacted by tribes that are not paying into that fund~~ *require an Indian Gaming Local Community Benefit Committee to select only grant applications that mitigate impacts from casinos on local jurisdictions, and would provide that, if a local jurisdiction uses a grant for any unrelated purpose, the grant shall terminate immediately and any moneys not yet spent shall revert to the Indian Gaming Special Distribution Fund. It would require a local jurisdiction that receives a grant from an Individual Tribal Casino Account to deposit all funds received in an interest-bearing account and use the interest from those funds only to mitigate an impact from a casino. The bill would require that, as a condition of receiving further funds, a local jurisdiction, upon request, demonstrate to the county that all expenditures made from the account have been in compliance with these provisions.*

~~Existing law requires that a certain portion of the funds in an Individual Tribal Casino Account be used for discretionary grants to local jurisdictions impacted by tribes, irrespective of any nexus to impacts from any particular tribal casino.~~

~~This bill would require, instead, that these discretionary grants be awarded to mitigate impacts from tribal casinos.~~

~~The bill would delete the January 1, 2009, expiration date for these provisions, thereby extending their operation indefinitely.~~

Existing law requires each county that administers grants from the Indian Gaming Special Distribution Fund to provide an annual report to certain legislative and executive branch members by October 1 of each year detailing the specific projects funded by all grants in the county's jurisdiction in the previous fiscal year, as specified.

This bill would provide that a county that does not provide an annual report pursuant to these provisions shall not be eligible for funding from the Indian Gaming Special Distribution Fund for the following year.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 12712 of the Government Code is*
2 *amended to read:*

3 12712. As used in this chapter:

4 (a) "County Tribal Casino Account" means an account
5 consisting of all moneys paid by tribes of that county into the
6 Indian Gaming Special Distribution Fund after deduction of the
7 amounts appropriated pursuant to the priorities specified in Section
8 12012.85.

9 (b) "Individual Tribal Casino Accounts" means an account for
10 each individual tribe that has paid money into the Indian Gaming
11 Special Distribution Fund. The individual tribal casino account
12 shall be funded in proportion to the amount that the individual
13 tribe has paid into the Indian Gaming Special Distribution Fund.

14 (c) "Local government jurisdiction" or "local jurisdiction"
15 means any city, county, or special district.

16 (d) "Special district" means any agency of the state that
17 performs governmental or proprietary functions within limited
18 boundaries. "Special district" includes a county service area, a
19 maintenance district or area, an improvement district or
20 improvement zone, or any other zone or area that meets the
21 requirements of this subdivision. "Special district" does not include
22 a city, county, school district, or community college district.

1 *SEC. 2. Section 12715 of the Government Code is amended to*
2 *read:*

3 12715. (a) The Controller, acting in consultation with the
4 California Gambling Control Commission, shall divide the County
5 Tribal Casino Account for each county that has gaming devices
6 that are subject to an obligation to make contributions to the Indian
7 Gaming Special Distribution Fund into a separate account for each
8 tribe that operates a casino within the county. These accounts shall
9 be known as Individual Tribal Casino Accounts, and funds may
10 be released from these accounts to make grants selected by an
11 Indian Gaming Local Community Benefit Committee pursuant to
12 the method established by this section to local jurisdictions
13 impacted by tribal casinos. Each Individual Tribal Casino Account
14 shall be funded in proportion to the amount that each individual
15 tribe paid in the prior fiscal year to the Indian Gaming Special
16 Distribution Fund.

17 (b) (1) There is hereby created in each county in which Indian
18 gaming is conducted an Indian Gaming Local Community Benefit
19 Committee. The selection of all grants from each Individual Tribal
20 Casino Account or County Tribal Casino Account shall be made
21 by each county's Indian Gaming Local Community Benefit
22 Committee. In selecting grants, the Indian Gaming Local
23 Community Benefit Committee shall follow the priorities
24 established in subdivision (g) *and the requirements specified in*
25 *subdivision (h)*. This committee has the following additional
26 responsibilities:

27 (A) Establishing all application policies and procedures for
28 grants from the Individual Tribal Casino Account or County Tribal
29 Casino Account.

30 (B) Assessing the eligibility of applications for grants from local
31 jurisdictions impacted by tribal gaming operations.

32 (C) Determining the appropriate amount for reimbursement
33 from the aggregate county tribal account of the demonstrated costs
34 incurred by the county for administering the grant programs. The
35 reimbursement for county administrative costs may not exceed 2
36 percent of the aggregate county tribal account in any given fiscal
37 year.

38 (2) Except as provided in Section 12715.5, the Indian Gaming
39 Local Community Benefit Committee shall be composed of seven
40 representatives, consisting of the following:

1 (A) Two representatives from the county, selected by the county
2 board of supervisors.

3 (B) Three elected representatives from cities located within four
4 miles of a tribal casino in the county, selected by the county board
5 of supervisors. In the event that there are no cities located within
6 four miles of a tribal casino in the county, other local
7 representatives may be selected upon mutual agreement by the
8 county board of supervisors and a majority of the tribes paying
9 into the Indian Gaming Special Distribution Fund in the county.
10 When there are no cities within four miles of a tribal casino in the
11 county, and when the Indian Gaming Local Community Benefit
12 Committee acts on behalf of a county where no tribes pay into the
13 Indian Gaming Special Distribution Fund, other local
14 representatives may be selected upon mutual agreement by the
15 county board of supervisors and a majority of the tribes operating
16 casinos in the county.

17 (C) Two representatives selected upon the recommendation of
18 a majority of the tribes paying into the Indian Gaming Special
19 Distribution Fund in each county. When an Indian Gaming Local
20 Community Benefit Committee acts on behalf of a county where
21 no tribes pay into the Indian Gaming Special Distribution Fund,
22 the two representatives may be selected upon the recommendation
23 of the tribes operating casinos in the county.

24 (c) Sixty percent of each individual tribal casino account shall
25 be available for nexus grants on a yearly basis to cities and counties
26 impacted by tribes that are paying into the Indian Gaming Special
27 Distribution Fund, according to the four-part nexus test described
28 in paragraph (1). Grant awards shall be selected by each county's
29 Indian Gaming Local Community Benefit Committee and shall
30 be administered by the county. Grants may be awarded on a
31 multiyear basis, and these multiyear grants shall be accounted for
32 in the grant process for each year.

33 (1) A nexus test based on the geographical proximity of a local
34 government jurisdiction to an individual Indian land upon which
35 a tribal casino is located shall be used by each county's Indian
36 Gaming Local Community Benefit Committee to determine the
37 relative priority for grants, using the following criteria:

38 (A) Whether the local government jurisdiction borders the Indian
39 lands on all sides.

1 (B) Whether the local government jurisdiction partially borders
2 Indian lands.

3 (C) Whether the local government jurisdiction maintains a
4 highway, road, or other thoroughfare that is the predominant access
5 route to a casino that is located within four miles.

6 (D) Whether all or a portion of the local government jurisdiction
7 is located within four miles of a casino.

8 (2) Fifty percent of the amount specified in subdivision (c) shall
9 be awarded in equal proportions to local government jurisdictions
10 that meet all four of the nexus test criteria in paragraph (1). If no
11 eligible local government jurisdiction satisfies this requirement,
12 the amount specified in this paragraph shall be made available for
13 nexus grants in equal proportions to local government jurisdictions
14 meeting the requirements of paragraph (3) or (4).

15 (3) Thirty percent of the amount specified in subdivision (c)
16 shall be awarded in equal proportions to local government
17 jurisdictions that meet three of the nexus test criteria in paragraph
18 (1). If no eligible local government jurisdiction satisfies this
19 requirement, the amount specified in this paragraph shall be made
20 available for nexus grants in equal proportions to local government
21 jurisdictions meeting the requirements of paragraph (2) or (4).

22 (4) Twenty percent of the amount specified in subdivision (c)
23 shall be awarded in equal proportions to local government
24 jurisdictions that meet two of the nexus test criteria in paragraph
25 (1). If no eligible local government jurisdiction satisfies this
26 requirement, the amount specified in this paragraph shall be made
27 available for nexus grants in equal proportions to local government
28 jurisdictions meeting the requirements of paragraph (2) or (3).

29 (d) Twenty percent of each Individual Tribal Casino Account
30 shall be available for discretionary grants to local jurisdictions
31 impacted by tribes that are paying into the Indian Gaming Special
32 Distribution Fund. These discretionary grants shall be made
33 available to all local jurisdictions in the county irrespective of any
34 nexus to impacts from any particular tribal casino, as described in
35 paragraph (1) of subdivision (c). Grant awards shall be selected
36 by each county's Indian Gaming Local Community Benefit
37 Committee and shall be administered by the county. Grants may
38 be awarded on a multiyear basis, and these multiyear grants shall
39 be accounted for in the grant process for each year.

(e) (1) Twenty percent of each Individual Tribal Casino Account shall be available for discretionary grants to local jurisdictions impacted by tribes that are not paying into the Indian Gaming Special Distribution Fund. These grants shall be made available to local jurisdictions in the county irrespective of any nexus to impacts from any particular tribal casino, as described in paragraph (1) of subdivision (c), and irrespective of whether the impacts presented are from a tribal casino that is not paying into the Indian Gaming Special Distribution Fund. Grant awards shall be selected by each county's Indian Gaming Local Community Benefit Committee and shall be administered by the county. Grants may be awarded on a multiyear basis, and these multiyear grants shall be accounted for in the grant process for each year.

(A) Grants awarded pursuant to this subdivision are limited to addressing service-oriented impacts and providing assistance with one-time large capital projects related to Indian gaming impacts.

(B) Grants shall be subject to the sole sponsorship of the tribe that pays into the Indian Gaming Special Distribution Fund and the recommendations of the Indian Gaming Local Community Benefit Committee for that county.

(2) If an eligible county does not have a tribal casino operated by a tribe that does not pay into the Indian Gaming Special Distribution Fund, the money available for discretionary grants under this subdivision shall be available for distribution pursuant to subdivision (d).

(f) (1) For each county that does not have gaming devices subject to an obligation to make payments to the Indian Gaming Special Distribution Fund, funds may be released from the county's County Tribal Casino Account to make grants selected by the county's Indian Gaming Local Community Benefit Committee pursuant to the method established by this section to local jurisdictions impacted by tribal casinos. These grants shall be made available to local jurisdictions in the county irrespective of any nexus to any particular tribal casino. These grants shall follow the priorities specified in subdivision (g) *and the requirements specified in subdivision (h)*.

(2) Funds not allocated from a county tribal casino account by the end of each fiscal year shall revert back to the Indian Gaming Special Distribution Fund. Moneys allocated for the ~~2003-04~~

1 2003–04 fiscal year shall be eligible for expenditure through
2 December 31, 2004.

3 (g) The following uses shall be the priorities for the receipt of
4 grant money from Individual Tribal Casino Accounts: law
5 enforcement, fire services, emergency medical services,
6 environmental impacts, water supplies, waste disposal, behavioral,
7 health, planning and adjacent land uses, public health, roads,
8 recreation and youth programs, and child care programs.

9 (h) *In selecting grants pursuant to subdivision (b), an Indian
10 Gaming Local Community Benefit Committee shall select only
11 grant applications that mitigate impacts from casinos on local
12 jurisdictions. If a local jurisdiction uses a grant selected pursuant
13 to subdivision (b) for any unrelated purpose, the grant shall
14 terminate immediately and any moneys not yet spent shall revert
15 to the Indian Gaming Special Distribution Fund. If a local
16 jurisdiction approves an expenditure that mitigates an impact from
17 a casino on a local jurisdiction and that also provides other
18 benefits to the local jurisdiction, the grant selected pursuant to
19 subdivision (b) shall be used to finance only the proportionate
20 share of the expenditure that mitigates the impact from the casino.*

21 ~~(h)~~—

22 (i) All grants from Individual Tribal Casino Accounts shall be
23 made only upon the affirmative sponsorship of the tribe paying
24 into the Indian Gaming Special Distribution Fund from whose
25 Individual Tribal Casino Account the grant moneys are available
26 for distribution. Tribal sponsorship shall confirm that the grant
27 application has a reasonable relationship to a casino impact and
28 satisfies at least one of the priorities listed in subdivision (g). A
29 grant may not be made for any purpose that would support or fund,
30 directly or indirectly, any effort related to the opposition or
31 challenge to Indian gaming in the state, and, to the extent any
32 awarded grant is utilized for any prohibited purpose by any local
33 government, upon notice given to the county by any tribe from
34 whose Individual Tribal Casino Account the awarded grant went
35 toward that prohibited use, the grant shall terminate immediately
36 and any moneys not yet used shall again be made available for
37 qualified nexus grants.

38 ~~(i)~~

39 (j) A local government jurisdiction that is a recipient of a grant
40 from an Individual County Tribal Casino Account or a County

Tribal Casino Account shall provide notice to the public, either through a slogan, signage, or other mechanism, stating that the local government project has received funding from the Indian Gaming Special Distribution Fund and further identifying the particular Individual Tribal Casino Account from which the grant derives.

(j)

(k) (1) Each county's Indian Gaming Local Community Benefit Committee shall submit to the Controller a list of approved projects for funding from Individual Tribal Casino Accounts. Upon receipt of this list, the Controller shall release the funds directly to the local government entities for which a grant has been approved by the committee.

(2) Funds not allocated from an Individual Tribal Casino Account by the end of each fiscal year shall revert back to the Indian Gaming Special Distribution Fund. Moneys allocated for the ~~2003-04~~ 2003-04 fiscal year shall be eligible for expenditure through December 31, 2004.

(l) Notwithstanding any other provision of law, a local government jurisdiction that receives a grant from an Individual Tribal Casino Account shall deposit all funds received in an interest-bearing account and use the interest from those funds only for the purpose of mitigating an impact from a casino. If any portion of the funds in the account are used for any other purpose, the remaining portion shall revert to the Indian Gaming Special Distribution Fund. As a condition of receiving further funds under this section, a local government jurisdiction, upon request of the county, shall demonstrate to the county that all expenditures made from the account have been in compliance with the requirements of this section.

SEC. 3. Section 12716 of the Government Code is amended to read:

12716. (a) Each county that administers grants from the Indian Gaming Special Distribution Fund shall provide an annual report to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the Senate and Assembly committees on governmental organization, and the California Gambling Control Commission by October 1 of each year detailing the specific projects funded by all grants in the county's jurisdiction in the previous fiscal year, including amounts expended in that fiscal

1 year, but funded from appropriations in prior fiscal years. The
2 report shall provide detailed information on the following:

- 3 ~~(a)~~
4 (1) The amount of grant funds received by the county.
5 ~~(b)~~
6 (2) A description of each project that is funded.
7 ~~(c)~~
8 (3) A description of how each project mitigates the impact of
9 tribal gaming.
10 ~~(d)~~
11 (4) The total expenditures for each project.
12 ~~(e)~~
13 (5) All administrative costs related to each project, excluding
14 the county's administrative fee.
15 ~~(f)~~
16 (6) The funds remaining at the end of the fiscal year for each
17 project.
18 ~~(g)~~
19 (7) An explanation regarding how any remaining funds will be
20 spent for each project, including the estimated time for expenditure.
21 ~~(h)~~
22 (8) A description of whether each project is funded once or on
23 a continuing basis.
24 (b) *A county that does not provide an annual report pursuant*
25 *to subdivision (a) shall not be eligible for funding from the Indian*
26 *Gaming Special Distribution Fund for the following year.*

27
28
29 **All matter omitted in this version of the bill**
30 **appears in the bill as introduced in**
31 **Assembly, 2/23/07 (JR11)**
32